

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 09.03.2017

CORAM:

THE HON'BLE MR. JUSTICE S. MANIKUMAR
AND
THE HON'BLE MR. JUSTICE M.GOVINDARAJ

C.M.A. No.1659 of 2016
and

C.M.P.No.12648 of 2016

M/s.New India Assurance Co. Ltd.
No.1, Bharathi Road
Arcot Woodlands Building
Cuddalore District ... Appellant/Respondent II

Vs.

1.D.Murugan ... 1st Respondent/Petitioner

2.M/s.Sri Vinayaga Transport Ltd.
No.69, Thatta Muthiah Street
Sowcarpet, Broadway
Chennai - 01 ... 2nd Respondent/1st Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree, dated 27.01.2016 made in MCOP No.596 of 2015, on the file of Motor Accidents Claims Tribunal (Special Sub Judge), Cuddalore.

For Appellant : Mr.J.Chandran

For Respondents: Mrs.Ramya V Rao
for R1

JUDGMENT

(Made by S.MANIKUMAR, J.)

Quantum of compensation of Rs.38,72,294/- with interest, at the rate of 7.5% and costs, awarded in MCOP No.596/2015 on the file of the Motor Accidents Claims Tribunal (Special Sub Judge), Cuddalore, to the injured, is challenged, solely on the ground that it is excessive. Tribunal has quantified the said sum as hereunder:

Loss of future earning	
Rs.25,482 x 12 x 80% x 13	: Rs. 31,80,154/-
Medical Expenses	: Rs. 1,22,140/-
Mental disability	: Rs. 1,75,000/-
Pain & Suffering	: Rs. 1,00,000/-
Attender Charges	: Rs. 50,000/-
Transport	: Rs. 25,000/-
Nourishment	: Rs. 15,000/-
Loss of article	: Rs. 5,000/-
Future Medical Expenses	: Rs. 2,00,000/-
(Artificial limb)	-----
	: Rs. 38,72,294/-

2. Though challenge to the quantum is made on various grounds, going through the judgment and considering the submissions of the learned counsel appearing for the parties, we deem it fit that the extent of disablement and the consequent percentage of earning capacity is on the higher side and compensation awarded under other heads, also require modification. Going through the medical evidence, we are of the view that, reduction is required in loss of earning capacity and compensation is worked as hereunder:

Loss of income during
treatment Rs.25,842 x 6 months : Rs. 1,52,892/-

Loss of future earning	
Rs.25,482 x 12 x 40% x 13	: Rs.15,90,077/-
Medical Expenses	: Rs. 50,000/-
Loss of amenities	: Rs. 1,00,000/-
Pain & Suffering	: Rs. 1,00,000/-
Attender Charges	: Rs. 50,000/-
Transport	: Rs. 50,000/-
Nourishment	: Rs. 50,000/-
Loss of article	: Rs. 5,000/-
Future Medical Expenses	: Rs. 2,50,000/-
(Artificial limb)	-----
	: Rs.23,97,969/-

Rounded off to : Rs.23,98,000/-

Compensation now determined by this court is Rs.23,98,000/-. Learned counsel for the appellant/insurance company submitted that 50% of the award amount with proportionate interest and costs, has already been deposited. Hence the appellant/insurance company is directed to deposit the balance amount with proportionate interest to the credit of MCOP No.596 of 2015 on the file of Motor Accident Claims Tribunal (Special Sub Judge),

Cuddalore, within a period of four weeks from the date of receipt of a copy of this judgment. Tribunal is further directed to disburse the compensation amount, after due verification and identity of the claimant/1st respondent. We direct that, there should be strict compliance.

In the result, the civil miscellaneous appeal is partly allowed to the extent indicated above. No costs. Consequently, the connected civil miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

asr

To

The Motor Accident Claims Tribunal
(Special Sub Judge), Cuddalore.

Copy to

The Section Officer,
VR Section, High Court, Madras.

+1cc to M/S.J.Chandran, Advocate Sr.15427

+2cc to M/S.A.N.Vishwanatha Rao, Advocate Sr.15184

सत्यमेव जयते

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